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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,195	08/25/2003	Richard J. Sepulveda	134.003	1763
38245	7590	09/14/2004	EXAMINER	
JEROME D. JACKSON (JACKSON PATENT LAW OFFICE) 211 N. UNION STREET, SUITE 100 ALEXANDRIA, VA 22314			JULES, FRANTZ F	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 09/14/2004


Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/647,195

Applicant(s)

SEPULVEDA, RICHARD J. 

Examiner

Frantz F. Jules

Art Unit

3617

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 13, 14, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 3-12, 15-24 and 27-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 22 is objected to because of the following informalities:

In claim 22, line 1, the word "including" should be inserted in front of the word coupling.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, the phrase "the first member being coupled to the wheel at a first time when the first member moves in a first direction on the surface" is confusing as it is unclear which particular structure applicant is referring to by a first member which is coupled to the wheel. According to fig. 3 of the drawings only sprocket member 15 is coupled to the wheel 14. Similar problem exists in claims 13, and 25.

In claim 1, lines 6-7, the phrase "the surface having an incline relative to a direction of movement of the second member" is confusing as it is unclear which particular structure applicant is referring to by a second member since only pedal member 16 or 116 and arm member 19 or 119 are used to apply a force to driving assembly. It is noted that only slot 26 has an inclined surface and it is located on arm member 19.

Art Unit: 3617

In claim 1, line 1, the phrase "wherein the first member includes a pin" is confusing as it is unclear which particular structure applicant is referring to by the first member when the specification discloses pin member 25 which rides in channel 26 of pedal lever 19. This pin member 25 is not coupled to wheel member 14.

Dependent claims 23-24 are drawn to additional structural limitations with the recitation of "the system further includes a second surface and a third member" or with the recitation of the system further includes a pedal configuration having a proximal part pivotally engaged with a bicycle frame" which are not elements of the system or structure of the independent claim 13. A method claim should include steps to further delineate the invention.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 13-14, 25-26 are rejected under 35 U.S.C. 102(e)(1) as being anticipated by Drew (US 20030025293A1).

Drew discloses an apparatus comprising a wheel configured to rotate, a surface constituted by slot of member 46; a first member (46A), the first member being coupled to the wheel at a first time when the first member moves in a first direction on the

Art Unit: 3617

surface; and a second member (36 or sprocket and belt) configured to apply a force to the first member, the surface having an incline relative to a direction of movement of the second member. The first member including a pin (50).

***Allowable Subject Matter***

6. Claims 3-12, 15-24, 27-36 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Fujiwara et al, Ray, Dick, and Islas are cited to show related system comprising means for applying a force and for coupling a first member to a wheel.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

September 9, 2004

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz', with a long horizontal flourish extending to the right.